

New Bedford Housing Authority Reasonable Accommodation/Modification  
Policy and Procedures

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**INTRODUCTION**

This Reasonable Accommodation/Modification Policy and Procedures, comprised of Part A and Part B, sets forth the policy and procedures of the New Bedford Housing Authority (the “LHA”) regarding making reasonable accommodations and reasonable modifications for qualified applicants or residents<sup>1</sup> with disabilities for participation in the LHA programs and activities.<sup>2</sup> A copy of this Reasonable Accommodation/Modification Policy and Procedures is posted in LHA common areas and on the LHA website, located at [newbedfordhousingauthority.org](http://newbedfordhousingauthority.org). Additionally, a copy of this Reasonable Accommodation/Modification Policy and Procedures

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<sup>1</sup> Reasonable accommodation/modification policies with respect to LHA employees are [available at]/[attached as Attachment X].

<sup>2</sup> Relevant program-specific requirements or procedures not addressed in Part A or Part B of this policy are incorporated in Attachment 8.

may be obtained upon request by contacting the Compliance Coordinator, 508-997-4829 x 148.

## **PART A: POLICY**

### **SECTION 1. DEFINITIONS**

1.1. The term “ADA” shall mean the Americans with Disabilities Act, as amended.

1.2. The term “FHA” shall mean the Fair Housing Act of 1968, as amended.

1.3. The term “*individual with a disability*”, shall mean:

- (i) A physical or mental impairment that substantially limits one or more of the major life activities of such individual;
- (ii) A record of such an impairment; or
- (iii) Being regarded as having such an impairment

This definition shall be interpreted as further detailed in 28 CFR § 35.108 (Title II ADA regulations).

1.4. The term “Policy” shall mean Part A of this Reasonable Accommodation/Modification Policy and Procedures, as adopted by the LHA Board, and as may be amended from time to time.

1.5. The term “Procedures” shall mean Part B of this Reasonable Accommodation/Modification Policy and Procedures, and as may be amended from time to time, in a manner consistent with the Policy, by the LHA’s Board.

1.6. The term “reasonable accommodation” as used herein means a change in the LHA’s rules, policies, practices, or services, that may be necessary to provide persons with disabilities an equal opportunity to participate in LHA programs, activities, and services, and/or to enjoy LHA dwellings or facilities.

1.7 The term “reasonable modification” as used herein means a physical change, such as to a dwelling unit, building, common or public area, etc., necessary to afford persons with disabilities an equal opportunity to use and enjoy the premises and/or to access programs, activities, and services.

### **SECTION 2. POLICY STATEMENT**

The LHA is committed to ensuring that its policies and practices do not deny individuals with disabilities the equal opportunity to access, participate in, or benefit from, the LHA’s housing services, programs, and facilities, nor otherwise discriminate against individuals with disabilities in connection with the operation of the LHA’s housing services or programs. Therefore, if an individual with a disability requires a reasonable accommodation, i.e., a change to its rules, policies, practices, or services, or a reasonable modification, i.e., a physical alteration to a housing unit or public or common use area, the LHA will provide such a reasonable accommodation/modification, unless doing so

would result in a fundamental alteration to the nature of the program or an undue financial and administrative burden. In such a case, the LHA will engage in an interactive process with the individual or person acting on the individual's behalf to make another accommodation/modification that would not result in a fundamental alteration or financial and administrative burden.

### SECTION 3. PURPOSE

3.1 This Policy is intended to:

- (a) communicate the LHA's position regarding reasonable accommodations/modifications for persons with disabilities in connection with the LHA's housing programs services, and policies;
- (b) establish a procedural guide for implementing such Policy; and
- (c) comply with applicable federal, state and local laws to ensure accessibility for persons with disabilities to housing programs, benefits and services administered by the LHA.

### SECTION 4. AUTHORITY

4.1 The requirements of this Policy are based upon the following statutes and regulations:

- (a) Section 504 of the Rehabilitation Act of 1973, as amended ("Section 504"), and implementing regulations at 24 CFR part 8, which prohibit discrimination on the basis of disability status by recipients of federal financial assistance.
- (b) The Fair Housing Act ("FHA"), as amended, which prohibits discrimination in the sale, rental and financing of dwellings on the basis of disability and other protected classes. Reasonable accommodation requirements are further clarified under The Joint Statement of the Department of Housing and Urban Development and the Department of Justice on Reasonable Accommodations under the Fair Housing Act<sup>3</sup>;
- (c) Title II of the Americans with Disabilities Act ("ADA"), as amended, and implementing regulations at 28 CFR part 35, prohibit discrimination on the basis of disability status by public entities. Except as provided in §35.102(b), of 28 CFR Part 35, the ADA applies to all services, programs and activities provided or made available by public entities (State and local governments and agencies and instrumentalities thereof);
- (d) Massachusetts General Laws chapter 151B, which prohibits discrimination against persons with disabilities and other protected classes in the renting, leasing, or sale of housing accommodations.

### SECTION 5. MONITORING AND ENFORCEMENT

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<sup>3</sup> [https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint\\_statement\\_ra.pdf](https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdf).

The LHA's Compliance Coordinator is responsible for monitoring the LHA's compliance with this Policy and enforcing the requirements under this Policy. Questions regarding this Policy, its interpretation or implementation should be made by contacting in writing, or in person by appointment, at 128 Union St. 4<sup>th</sup> Floor, New Bedford, MA or by calling 508-997-4829 ext. 148.

## SECTION 6. GENERAL PRINCIPLES FOR PROVIDING REASONABLE ACCOMMODATIONS/MODIFICATIONS

6.1 Listed below are the general principles which provide a foundation for the Policy and which LHA staff should apply when responding to requests for reasonable accommodations/modifications within all LHA housing programs:

(a) It is presumed that the individual with a disability is usually knowledgeable of the appropriate types of, and methods for providing, reasonable accommodations/modifications needed when making a request. However, the LHA may offer equally effective alternatives to the requested accommodation, and/or alternative methods for providing the requested accommodation/modification.

(b) The procedure for evaluation and responding to requests for a reasonable accommodation/modification relies on a cooperative relationship between the LHA and the applicant/resident, or person acting on the applicant/resident's behalf. The process is not adversarial. Instead, it is an **interactive process**, including for the purposes of addressing any needed clarifications as to what is being requested or information that was submitted, any further information that may be needed, and/or in some cases, to discuss alternative accommodations/modifications that may meet the individual's needs.

(c) The LHA shall inform all applicants and residents of alternative forms of communication. The Request for Reasonable Accommodations/Modifications form ("Request Form") (a copy of which is attached to this Policy and Procedures as Attachment 2) is designed to assist the LHA and our applicants/residents. If an applicant/resident does not, or cannot use the Request Form, the LHA will still respond to the request for an accommodation/modification. The applicant/resident may also request assistance with the Request Form or may request that the Request Form be provided in an equally effective format or means of communication through auxiliary aids and services.

(i) Some examples of auxiliary aids and services include the following: qualified interpreters, printed material, telecommunications products and systems including text telephones (TTYs), assistive listening devices, or other effective methods of making aurally delivered materials available to persons who are deaf or hard of hearing; qualified readers, taped texts, audio recordings, materials written in Braille, large print materials, or other effective methods of making visually delivered materials available to individuals who are blind or have low vision.

(d) If the accommodation/modification is reasonable (see Procedure 3 below), the LHA will grant it.

(e) In accordance with Procedure 3 below, the LHA will grant the request for a reasonable accommodation/modification only to the extent that an undue financial and administrative burden or fundamental alteration to the nature of the program is not created thereby. A “fundamental alteration” is a modification that alters the essential nature of a provider's operations (e.g., a request for a service such as a transportation service that the LHA does not provide under its program). The LHA will make a determination of undue financial and administrative burden on a case-by-case basis, involving various factors, such as the cost of the reasonable accommodation/modification, the financial resources of the LHA, the benefits the accommodation/modification would provide to the requester, and the availability of alternative accommodations/modifications that would adequately meet the requester’s disability–related needs.

The LHA will also grant reasonable modifications in accordance applicable laws, including G.L. c. 151B § 4(7A) with respect to reasonable modifications that are at the expense of owners in publicly assisted housing. The LHA will also set-aside and consult resources for its state-aided public housing in accordance with PHN 2011-13.

(f) All written documents required by or as a result of this Policy must contain plain language and be in appropriate alternative formats in order to communicate information and decisions to the person requesting the accommodation/modification.

(g) Any in-person meetings with a person with mobility impairments will be held in an accessible location. Reasonable accommodations will also be made to meet the person’s disability-related needs, including through telephonic or remote meetings, as well as through requested auxiliary aids or services, to ensure the person has an equally effective opportunity to attend and participate

## SECTION 7. AMENDMENTS

7.1. The Policy may be amended only by resolution of the Board of the LHA.

7.2. The Procedures may be amended within the scope of the Policy by the Board of the LHA.

7.3. Legal Compliance. Any amendment to the Policy or Procedures shall be consistent with all applicable laws and regulations.

## SECTION 8. STAFF TRAINING

The Compliance Coordinator and/or Executive Director will ensure that LHA staff are familiar with this Policy and Procedures and all applicable federal, state and local requirements regarding reasonable accommodations/modifications. The Compliance Coordinator will avail himself/herself of training opportunities related to anti-discrimination efforts and reasonable accommodations/modifications.

## PART B: PROCEDURES

## PROCEDURE 1 - COMMUNICATION WITH APPLICANTS AND RESIDENTS

1. At the time of application, all applicants will be provided with the opportunity to request a reasonable accommodation/modification on the Common Housing Application for Massachusetts Public-Housing (CHAMP) or by paper application, or, upon the applicant's request, in another equally effective format. The Notice to All Applicants and Residents: Reasonable Accommodations and Modifications are available for Applicants and Residents with Mental and/or Physical Disabilities ("Notice") is attached to this Policy and Procedures as Attachment 1.
2. LHA Residents seeking accommodations/modifications may contact the management office located within their housing development or the management office for their scattered site residence or call the LHA office at 508-997-4829, TTY 508-997-4874.
3. The LHA is responsible for informing all residents that a request may be submitted for reasonable accommodations/modifications for an individual with a disability. All residents will be provided the Notice and the Request Form when requesting a reasonable accommodation/modification. *However, the Request Form cannot be required. A resident may otherwise submit the request in writing, orally, and at any time.* Upon receiving the request, housing management and/or the Compliance Coordinator will respond to the request within ten (10) business days. If additional information or documentation is required, a written request should be issued to the resident by using the Reasonable Accommodation Request & Release of Information Authorization.
4. The LHA will approve or deny the request as soon as possible, but not later than thirty (30) days after receiving all needed information and documentation from the resident. All decisions to grant or deny reasonable accommodations/modifications will be communicated in writing or if required, in an alternative format to communicate the decision to the applicant/resident. Exceptions to the thirty (30) day period for notification of the LHA's decision on the request should be provided to the resident in writing setting forth the reasons for the delay. A copy of each of the Letter Denying Request for Reasonable Accommodation/ Modification and the Letter Approving Request for Reasonable Accommodation/ Modification is attached to this Policy and Procedure as Attachment 2 and Attachment 3, respectively.
5. The LHA will maintain its offices written materials which summarize this Policy and highlights the Procedures for making a request for reasonable accommodation/modification.

## PROCEDURE 2 - SEQUENCE FOR MAKING DECISIONS

- STEP 1.** Is the applicant/resident a qualified "individual with a disability"?
- (a) If NO, the LHA is not obligated to make a reasonable accommodation/modification; therefore, the LHA may deny the request.
  - (b) IF YES, proceed to Step 2.
  - (c) If more information is needed, the LHA will seek additional information as appropriate through the standard Request for Information letter, the standard Request for Meeting letter, and/or other equally effective method of communication (a copy of the Request for Meeting letter is attached to this Policy and Procedures as

Attachment 7).

**STEP 2.** Is the requested accommodation/modification related to the disability?

- (a) If NO, the LHA is not obligated to make the accommodation/modification; therefore, the LHA may deny the request.
- (b) If YES, proceed to Step 3.
- (c) If more information is needed, the LHA will seek additional information as appropriate through the standard Request for Information letter, the standard Request for Meeting letter, and/or other equally effective method of communication

**STEP 3.** Is the requested accommodation reasonable? This determination will be made by following PROCEDURE 3 - GUIDELINES FOR DETERMINING REASONABLENESS, below.

- (a) If YES, the LHA will approve the request for reasonable accommodation/modification. A written description of the accommodation/modification will be prepared and included in the Letter Approving Request for Reasonable Accommodation/Modification.
- (b) If NO, the LHA may deny the request. Submit the denial using the Letter Denying Request for Reasonable Accommodation/Modification.
- (c) If more information is needed, the LHA will seek additional information as appropriate through the standard Request for Information letter, the standard Request for Meeting letter, and/or other equally effective method of communication.

### PROCEDURE 3 -GUIDELINES FOR DETERMINING REASONABLENESS

1. In accordance with Section 6.1 of the Policy, the LHA will consider the requested method for providing reasonable accommodations/modifications for an individual with a disability. However, unless the disability-related need for an accommodation/modification is obvious or otherwise known to the LHA, the LHA may require the individual with a disability to provide further information to demonstrate the need for the requested accommodation to enable an equal opportunity to access, use, or enjoy the housing program or LHA services and activities. Additionally, the LHA may offer equally effective alternatives to the requested accommodation/modification, and/or alternative methods for providing the requested accommodation through the interactive process.

2. Requests for reasonable accommodation/modification will be considered on a case-by-case basis. Decisions regarding reasonable accommodations/modifications will be made in compliance with all applicable laws, regulations, and requirements. Additionally, in those circumstances where the LHA deems that a proposed reasonable accommodation/modification would fundamentally alter the service, program, or activity, or would result in undue financial and administrative burdens, the LHA has the burden of proving such result(s).

3. The responsibility for the decision that a proposed reasonable accommodation/modification would result in such alteration or burdens shall rest with the Executive Director or his/her designee after considering all resources available for use in the funding and operation of the service, program, or activity, and must be accompanied by

written statement of the reasons for reaching that conclusion. If an action would result in such an alteration or such burdens, the LHA shall propose any other action that will not result in or require a fundamental alteration or financial and administrative burden as part of the interactive process.

4. Direct Threat. Generally, an accommodation is not required if it would pose a “direct threat” to the health and safety of other individuals or would result in substantial physical damage to the property of others. The LHA’s assessment of “direct threat” will be individualized and based on reliable objective evidence (*e.g.*, current conduct, or a recent history of overt acts). The LHA’s assessment will consider: (1) the nature, duration, and severity of the risk of injury; (2) the probability that injury will actually occur; and (3) whether there are any reasonable accommodations that will eliminate the direct threat. In evaluating a recent history of overt acts, the LHA will take into account circumstances, such as intervening treatment or medication, that have eliminated the direct threat (*i.e.*, a significant risk of substantial harm).

5. Verification. The LHA may generally verify a person has a disability only to the extent necessary to determine that the person: is qualified for the housing for which they are applying; is entitled to any disability-related preference or benefit they may claim; or has a disability-related need for a requested accommodation/modification in order to have an equal opportunity to enjoy the housing and/or participate in or benefit from the LHA’s activities, programs, or services.

In response to reasonable accommodation/modification requests, the LHA may not require verification of disability if the disability is obvious or otherwise known. The LHA also may not ask what the disability is or require specific details as to the disability. The LHA may require documentation of the disability-related need (*i.e.*, information showing that there is a relationship or nexus between the requested accommodation/modification and the individual’s disability or effects of the disability), unless such need is obvious or otherwise known. The LHA may not otherwise inquire into the nature or severity of the disability, require access to confidential records, or require specific types of evidence of disability or disability-related need.

6. Confidentiality. Information provided to the LHA in relation to a reasonable accommodation/modification request will be kept confidential and will not be shared with other persons unless they need the information to make or assess a decision to grant or deny a reasonable accommodation/modification request or unless disclosure is required by law.

#### 7. Additional Procedures: Applicant Appeals and Tenant Grievances

[For programs subject to 760 CMR 5.08(2) and/or 760 CMR 6.03 & 6.08] When an LHA determines that an applicant may be disqualified for housing because of a lease violation at a prior tenancy or other disqualifying conduct, if the applicant shows that the lease violation or disqualifying conduct was due to a disability, then these facts shall be considered by the LHA as mitigating circumstances pursuant to 760 CMR 5.08(2). Disability-related circumstances relating to a lease violation may also be presented by or on behalf of a resident with a disability as part of the grievance process pursuant to 760 CMR 6.03 & 6.08. For example, a tenant may demonstrate that a lease violation arose



from a disability and that some circumstance has changed, and/or some reasonable accommodation could be provided, making the conduct unlikely to recur. Such circumstances may also be presented separately through a reasonable accommodation request (e.g., a request to forego eviction) independent of the grievance process. Tenants may also grieve LHA responses or inaction with respect to a reasonable accommodation/modification request through the grievance process pursuant to 760 CMR 6.03 & 6.08.

**ATTACHMENTS:**

Attachment 1 – Reasonable Accommodation Request Form & Release of Information Authorization

Attachment 2 – Letter Denying Request for Reasonable Accommodation/Modification

Attachment 3 – Letter Approving Reasonable Accommodation/Modification

# Notice to All Applicants and Residents: Reasonable Accommodations and Modifications are available for Applicants and Residents with Mental and/or Physical Disabilities

New Bedford Housing Authority (LHA) does not discriminate against applicants or residents on the basis of mental (including psychiatric) or physical disabilities. In addition, the LHA has an obligation to provide "reasonable accommodations" and "reasonable modifications" on account of a disability if an applicant or resident or a household member is limited by the disability and for this reason needs such an accommodation or modification. A reasonable accommodation is a change that the LHA can make to its rules, policies, practices, or services, and a reasonable modification is a change an LHA can make to its facilities (including physical alterations to the housing unit or public or common use areas) that will assist an otherwise eligible person with a disability to have equal opportunity to use and enjoy the housing or common or public use areas or to participate fully in the LHA's programs, activities, or services. Such changes may not be reasonable if they are not financially and programmatically feasible for the housing authority.

An applicant or resident household which has a member with a mental and/or physical disability must still be able to meet essential obligations of tenancy (for example, the household must be able to pay rent, to care for the apartment, to report required information to The LHA, and to avoid disturbing neighbors), but an accommodation or modification may be the basis by which the household is able to meet those obligations of tenancy.

The LHA has a Compliance Coordinator. If you need an accommodation or modification because of a disability, please complete the attached form and return it to the LHA. Upon reasonable request by the LHA, you must also submit documentation verifying the existence of a disability and the disability-related need for the accommodation or modification. Within thirty (30) calendar days of receipt of your request and documentation, the Compliance Coordinator will contact you to discuss what the LHA can reasonably do to provide you an accommodation or modification on account of your disability.

If you or a member of your household has a mental and/or physical disability, and as a result needs an accommodation or modification, you, the household member, or authorized representative, may request it at any time. However, you are not obliged to make such a request, and if you prefer not to do so that is your right.



**REASONABLE ACCOMMODATION REQUEST FORM & RELEASE  
OF INFORMATION AUTHORIZATION.**

Head of Household: \_\_\_\_\_ Date: \_\_\_\_\_

Address: \_\_\_\_\_ Phone #: \_\_\_\_\_

Household member requesting accommodation: \_\_\_\_\_

Household member requesting accommodation has a disability as defined below:

- A physical or mental impairment that substantially limits one or more major life activities; a record of having such an impairment; or being regarded as having such an impairment:

As a result of his/her disability the following change or changes in a rule, policy, or procedure is requested: (Note: You may ask for changes in how you meet the terms of the lease, but everyone must continue to meet the terms of the lease.)

**Please Complete Section A, B, C & D**

**A. Please tell us what you need: (must be in English)**


**B. This reasonable accommodation is needed so that I can: (must be in English)**


**C. You may verify that I/they have a disability and the need for this request by contacting:**

\_\_\_\_\_  
Name of Medical Professional or Knowledgeable Provider

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City/State/Zip Phone

**D. Signature (Head of Household if self/minor or adult Household member requesting accommodation)**

I, \_\_\_\_\_ hereby authorize the individual or organization listed above to release information that is necessary to evaluate the disability-related need for the accommodation requested above to the New Bedford Housing Authority and to complete the Certification of Need for Reasonable Accommodation attached.

**SPANISH TRANSLATION ON BACK OF THIS FORM/TRADUCCION AL ESPANOL AL REVERSO DE ESTE FORMULARIO**



## FORMULARIO DE SOLITUD DE ACOMODACION RAZONABLE Y AUTHORIACION DE DIVULGACION DE INFORMACION

Jefe de hogar: \_\_\_\_\_ Fecha: \_\_\_\_\_

Dirección: \_\_\_\_\_ Teléfono: \_\_\_\_\_

Miembro del hogar que solicita alojamiento:

El miembro del hogar que solicita alojamiento tiene una discapacidad como se define a continuación:

- Un impedimento físico o mental que limite sustancialmente una o más actividades principales de la vida; un registro de tener dicho impedimento; o se considera que tiene tal impedimento:

Como resultado de su discapacidad, se solicita el siguiente cambio o cambios en una regla, política o procedimiento: (Nota: puede solicitar cambios en la forma en que cumple con los términos del contrato de arrendamiento, pero todos deben continuar cumpliendo con los términos del contrato de arrendamiento.)

### Por Favor Completa La Sección A, B, C & D

#### A. Por favor díganos lo que necesita: (tiene que ser en inglés)


#### B. Esta adaptación razonable es necesaria debido a mis discapacidades para que yo pueda: (tiene que ser en inglés)


#### C. Puede verificar que yo/ellos tengo una discapacidad y la necesidad de esta solicitud con:

\_\_\_\_\_  
Nombre del Profesional Médico oh, Proveedor Informado

\_\_\_\_\_

\_\_\_\_\_  
Dirección

\_\_\_\_\_

#### D. Firma (jefe de familia si es usted mismo o menor de edad oh miembro adulto del hogar que solicita alojamiento)

Yo, \_\_\_\_\_ por lo presente, autorizo a la persona oh organización

mencionada con anterioridad a divulga la información que sea necesaria para evaluar la necesidad relacionada con la discapacidad de la adaptación solicitada con anterioridad a la Autoridad de Vivienda de New Bedford y para completar la Certificación de Necesidad do Adaptación Razonable adjunta.